***THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

WRIT PETITION Nos.27385 OF 2005 & 1439 OF 2006

% 3-02-2006

Between:

M/s.Manoj Mirror Industries, rep. by its

Prop: Smt.Mitha R.Patel.(W.P.No.27385 of 2005)

B.Maheshwar (W.P.No.1439 of 2006)

…Petitioners

And

The Authority U/s.50 of a.P.Shops & Estts.Act,

Labour Officer, Hyderabad III, & another

…Respondents

! COUNSEL FOR PETITIONER: Mr.A.K.Jaya Prakash Rao

^ COUNSEL FOR RESPONDENTS: G.P.for Labour & Mr.W.B.Srinivas (W.P.No.27385 of 2005)

< Gist:

> Head Note:

? CITATIONS:

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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Dated 3rd February 2006

W.P.No.27385 of 2005

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION Nos.27385 OF 2005 & 1439 OF 2006

COMMON ORDER:

These two writ petitions arise out of different orders passed by the authority,

under the Andhra Pradesh Shops and Establishments Act, 1988 (for short "the Act). For the sake of convenience, the parties are referred to, as arrayed in W.P.No.27385 of 2005.

The petitioner is an industry. The second respondent presented a claim before the first respondent, which was taken up as S.E.No.33 of 2003, claiming the various service benefits, totaling to Rs.2,75,250/-, under various heads, for the period commencing from 1995. The petitioner pleaded that the second respondent joined its service, only in the year 2001, as Sales Representative, and that he did not work with them, prior to that period. It was also urged that the petitioner did not terminate the service of the respondent, and on the other hand, the latter left the service, as he secured better employment.

The enquiry into the application made by the second respondent commenced, and witnesses have been examined. The petitioner filed three applications, being I.A.Nos.11, 12 and 13 of 2005, seeking permission to exhibit certain documents, and to reopen the evidence, to mark them. Similarly, the second respondent filed Application Nos.10 and 15 of 2005, with a prayer to recall RW-1, for further evidence, and for summoning the Income Tax Returns filed by the petitioner herein, for the years 1995 to 2003. Through separate orders, dated 13.12.2005, the first respondent dismissed the applications. While the petitioner challenges the orders dismissing the applications filed by it, the second respondent filed W.P.No.1439 of 2006, assailing the similar orders passed on the applications made by him.

Heard the learned counsel for the petitioner and learned counsel for respondents.

The first respondent made identical observations in the separate orders passed by it, while dismissing the applications filed by both the parties. The observation reads as under:

> "It is noticed by the authority that both the counsels of applicant and respondent are filing I.As on flimsy grounds to prolong the litigation. They are therefore advised to desist from filing such I.As and should cooperate for early disposal of the main case as it is pending since 2003."

In relation to the applications filed for marking certain documents, the first respondent observed that the documents, which are sought to be introduced, will be taken into consideration, while disposing of the main application. The application for

recalling of the witnesses was also dismissed, with the same observation. The Income Tax Returns, for the years 1995 to 2003, are held to be not necessary.

The first respondent is an authority, created under
Section 50 of the Act, for the exclusive purpose of adjudicating the claims, in relation to deductions, delay, or denial of payment of wages. Section 65 of the Act bars the filing of suits for such claims. Inasmuch as the first respondent is treated as substitute for a regular Civil Court, Section 55 of the Act confers powers of Civil Court, under the C.P.C., upon it, for the purpose of taking evidence, enforcing attendance of witnesses and compelling the production of documents. It is also declared that the authority shall be deemed to be a Civil Court, for all purposes, under
Section 195 of Cr.P.C.

The first respondent does not appear to have recognized the importance of introducing the documents through a witness. A general observation is made to the effect that the documents, which are sought to be introduced through witness, will be taken into account, while disposing of the application. On the face of it, such a procedure runs contrary to the basic tenets of trial. The party, through whom documents are sought to be introduced, must explain their relevance and context, and the other party would be entitled to elicit necessary information through such witness. Unless a document is introduced through a witness, or with the consent of the parties, the first respondent cannot take them into account, while disposing of the application.

Whenever, an application is made by the parties before it, for introduction of certain documents, the first respondent is under obligation to examine their relevance. If it is found that the document had any bearing on the claim before it, it must accord permission for the introduction of the same, and if the document found to be irrelevant, reject the application. A document, which is found to be irrelevant, or unconnected with the dispute, cannot be taken into account, at the stage of hearing. The general observation that the parties are filing applications on flimsy grounds, if at all anything, reflects impatience, or general reluctance, on the part of the Presiding Officer. When specific powers are conferred, in relation to summoning of witnesses, documents, etc., applications filed for that purpose cannot be treated as flimsy, without examining them from the proper context.

The second respondent made a specific application for summoning the Income Tax Returns filed by the petitioner, for the years 1995 to 2003, to establish his claim that he worked with the petitioner, before 2001. If the Income Tax Returns contain the particulars of payment of salary, or other benefits to the petitioner, his claim would stand established. On the other hand, if the Returns do not reflect such a situation, the plea of the petitioner stands established. Either way, it would be useful in adjudicating the dispute between the parties. To avoid delay in disposal of the matter, the first respondent stipulated time limit, within which various steps must be taken.

For the foregoing reasons, the writ petitions are allowed, and the orders passed by the first respondent, rejecting the applications filed by the parties before it, are set aside. The first respondent is directed to summon the Income Tax Returns submitted by the petitioner, for the years 1995 to 2003, within a stipulated time. In case, the Income Tax Returns are received, the concerned witness shall be recalled, and the Returns shall be introduced through him. At that time itself, the other documents, which are relied upon by the petitioner, shall be dealt with, depending upon their relevance. There shall be no order as to costs.

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3rd February 2006

Note: L.R.copies be marked.

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